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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,454	07/30/2004	Sunao Tabata	016907-1653	1785

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EXAMINER	
RASHID, DAVID	

ART UNIT	PAPER NUMBER
2624	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/806,454	TABATA ET AL.	
	Examiner	Art Unit	
	David P. Rashid	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-32* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1, 18, 22-26, and 28-30 (and their corresponding dependents), drawn to compression and conversion, classified in class 382 (Image Analysis), subclass 232 (Image Compression or Coding).

II. Claims 8-10 and 15-17 (and their corresponding dependents), drawn to color-determination, classified in class 382 (Image Analysis), subclass 165 (Pattern Recognition of Classification using Color).

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombination are distinct, separate, and specific parts of the overall disclosure (*e.g.* fig. 1 where subcombination I is drawn to elements 1002, 1108, and 1010; and subcombination II is drawn to element 1003). The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

3. This application contains claims directed to the following patentably distinct species

Species I, drawn to an image processing apparatus as defined in FIG. 1, identified as a separate embodiment by the specification at paragraphs 0028 and 0053.

Species II, drawn to an image processing apparatus as defined in FIG. 12, identified as a separate embodiment by the specification at paragraphs 0039 and 0125.

Species III, drawn to an image processing apparatus as defined in FIG. 16, identified as a separate embodiment by the specification at paragraphs 0043 and 0136-0137.

Species IV, drawn to an image processing apparatus as defined in FIG. 17, identified as a separate embodiment by the specification at paragraphs 0044 and 0145-0146.

Species V, drawn to an image processing apparatus as defined in FIG. 18, identified as a separate embodiment by the specification at paragraphs 0045 and 0149-0150.

Species VI, drawn to an image processing apparatus as defined in FIG. 22, identified as a separate embodiment by the specification at paragraphs 0049 and 0170-0171.

Species VII, drawn to an image processing apparatus as defined in FIG. 24, identified as a separate embodiment by the specification at paragraphs 0051 and 0175-0176.

4. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143)

and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. In summary, the Applicant has one of fourteen options:

(i) Election of invention I and species I (the identification and selection of species I within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(ii) Election of invention I and species II (the identification and selection of species II within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(iii) Election of invention I and species III (the identification and selection of species III within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(iv) Election of invention I and species IV (the identification and selection of species IV within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(v) Election of invention I and species V (the identification and selection of species V within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(vi) Election of invention I and species VI (the identification and selection of species VI within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(vii) Election of invention I and species VII (the identification and selection of species VII within claims 1, 18, 22-26, and 28-30 and its corresponding dependents);

(viii) Election of invention II and species I (the identification and selection of species I within claims 8-10 and 15-17 and its corresponding dependents);

(ix) Election of invention II and species II (the identification and selection of species II within claims 8-10 and 15-17 and its corresponding dependents);

(x) Election of invention II and species III (the identification and selection of species III within claims 8-10 and 15-17 and its corresponding dependents);

(xi) Election of invention II and species IV (the identification and selection of species IV within claims 8-10 and 15-17 and its corresponding dependents);

(xii) Election of invention II and species V (the identification and selection of species V within claims 8-10 and 15-17 and its corresponding dependents);

(xiii) Election of invention II and species VI (the identification and selection of species VI within claims 8-10 and 15-17 and its corresponding dependents);

(xiv) Election of invention II and species VII (the identification and selection of species VII within claims 8-10 and 15-17 and its corresponding dependents);

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David P. Rashid whose telephone number is (571) 270-1578. The examiner can normally be reached Monday - Friday 8:30 - 17:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vikkram Bali can be reached on (571) 272-7415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David P. Rashid/
Examiner, Art Unit 2624

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Examiner
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